

**REMARKS**

The Office Action mailed July 30, 2004 has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

No extension of time is believed to be required based upon the filing of this Amendment prior to the deadline of the three-month statutory period (i.e., October 30, 2004). Authorization is granted to charge counsel's Deposit Account No. 01-2300, referencing **Attorney Docket No. 108426-00010**, for any additional fees necessary for entry of this Amendment.

The undersigned counsel wishes to thank the Examiner for providing opportunities to discuss the Office Action and the rejections and objections therein in more detail. Claims 7-10 have accordingly been amended and Applicants submit that the amendments made herein are fully supported in the Specification and the drawings, as originally filed, and therefore no new matter has been introduced. Accordingly, claims 7-10 are pending in the present application and are respectfully submitted for reconsideration.

Claim 7 stands objected to for an informality. In making this objection, the Examiner noted that the limitation "means for capable of" required correction. However, based upon our review of this claim, it is unclear where in the claim the Examiner finds this claim language. Attention is directed to claim 7 as it was amended in the Amendment under 37 C.F.R. § 1.116 filed April 29, 2004 which recited in pertinent part "wherein said input means further comprises vehicle-to-vehicle distance setting means capable of changing said vehicle-to-vehicle distance from a long distance to a short distance in response to operation by the driver." Clarification is requested. However, it is noted in the present Amendment that claim 7 has been further

amended and it is believed that such objection, if necessary, is now rendered moot. Clarification and reconsideration is accordingly requested.

Claim 7 stands rejected under 35 U.S.C. § 102(b) as being anticipated by the Kakinami et al. patent (U.S. Patent No. 5,230,400). In making this rejection, the Examiner noted that the Kakinami et al. patent discloses "a vehicle-to-vehicle distance setting means SW7 that is capable of establishing a long, middle or short distance" and that "SW7 can be pressed by an operator at an appropriate moment to selectively choose either a long, middle or short distance." In addition, the Examiner noted that "the distance setting means is defined in the claims in terms of function, rather than structure, without invoking 35 USC 112, sixth paragraph." Claim 7 has been amended. The rejection is respectfully traversed and reconsideration is requested.

Independent claim 7, as amended, recites, in pertinent part, input device includes vehicle-to-vehicle distance setting selector for switching the set vehicle-to-vehicle distance from a long distance to a short distance in response to operation by the driver when the subject vehicle is in the vehicle-to-vehicle distance control mode; and mode selector performs a switching from the constant vehicle speed control mode to the vehicle-to-vehicle distance control mode in response to operation by the driver upon the vehicle-to-vehicle distance setting selector to switch the set vehicle-to-vehicle distance from the long distance to the short distance when the subject vehicle is in the constant vehicle speed control mode. Specifically, the vehicle-to-vehicle distance setting selector has two functions. When the vehicle-to-vehicle distance setting selector is operated when the vehicle is in the vehicle-to-vehicle distance control mode, the vehicle-to-vehicle distance setting selector switches the set vehicle-to-vehicle distance that is to be kept during the vehicle-to-vehicle distance control mode. When the vehicle-to-vehicle distance setting selector is operated when the vehicle is in the constant speed control mode, the vehicle-

to-vehicle distance setting selector shifts the vehicle from the constant speed control mode to the vehicle-to-vehicle distance control mode. It is submitted that the switch SW7 of the Kakinami et al. patent is neither analogous nor equivalent to the vehicle-to-vehicle distance setting selector of the present invention.

Specifically, the switch SW7 of the Kakinami et al. patent does not have the above first function of the present invention, i.e., the switch SW7 fails to switch the set vehicle-to-vehicle distance that is to be kept during the vehicle-to-vehicle distance control mode. Rather, the switch SW7 merely sets in the register the distance  $L_s$  acquired when SW7 is pressed. More specifically, in the Kakinami et al. patent, the desired distance and the desired speed for automatic distance control can only be set by the driver by depressing the switch SW7 when the vehicle is driving at the desired distance and the desired speed. The vehicle is then controlled so that the distance to a preceding vehicle falls within the range ( $L_d$ - $L_u$ ) defined based on  $L_s$ . However, according to the Kakinami et al. patent, after the vehicle enters the distance control mode, there is no means for switching the distance  $L_s$  or the range ( $L_d$ - $L_u$ ) during the distance control mode, as claimed in the present invention. Accordingly, the Kakinami et al. patent does not disclose or suggest the auto-cruise apparatus as claimed in the present invention.

Based upon the forgoing, Applicants respectfully submit that each and every element recited within independent claim 7, as amended, is neither disclosed nor suggested by the Kakinami et al. patent, and therefore claim 7 is patentable and in condition for allowance. Reconsideration is requested.

Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kakinami et al. patent in view of the Nishimura patent (U.S. Patent No. 5,695,020). Dependent

claim 10 depends from independent claim 9. Claims 8-10 have been amended. The rejections are respectfully traversed and reconsideration is requested.

Independent claim 8, as amended, recites, in pertinent part, input device includes vehicle-to-vehicle distance setting selector for switching the set vehicle-to-vehicle distance from a short distance to a long distance in response to operation by the driver when the subject vehicle is in the vehicle-to-vehicle distance control mode; and mode selector performs a switching from the vehicle-to-vehicle distance control mode to the constant vehicle speed control mode in response to operation by the driver upon the vehicle-to-vehicle distance setting selector for a predetermined time period or more to switch the set vehicle-to-vehicle distance from the short distance to the long distance when the subject vehicle is in the vehicle-to-vehicle distance control mode.

Independent claim 9, as amended, recites, in pertinent part, input device includes vehicle-to-vehicle distance setting selector for switching the set vehicle-to-vehicle distance to at least a long, middle or short distance when the subject vehicle is in the vehicle-to-vehicle distance control mode; and mode selector performs a switching from the vehicle-to-vehicle distance control mode to the constant vehicle speed control mode in response to such operation upon the vehicle-to-vehicle distance setting selector that increases the set vehicle-to-vehicle distance and is performed for a predetermined time period or more when the set vehicle-to-vehicle distance is set to long.

It is respectfully submitted that the Kakinami et al. patent in alleged combination with the Nishimura patent fails to disclose or suggest the auto-cruise apparatus, as claimed in the present invention. Specifically, neither the Kakinami et al. patent nor the Nishimura patent, alone or in alleged combination, discloses or suggests that when a vehicle-to-vehicle distance setting

selector is operated when the vehicle is in the vehicle-to-vehicle distance control mode, the vehicle-to-vehicle distance setting selector switches the set vehicle-to-vehicle distance that is to be kept during the vehicle-to-vehicle distance control mode, as claimed in the present invention. Rather, as presented in the above arguments, the switch SW7 of the Kakinami et al. patent merely sets in the register the distance  $L_s$  acquired when SW7 is pressed. Similarly, the Nishimura patent merely discloses a SET switch arranged to set a target vehicle speed during vehicle-speed based control in accordance with a vehicle speed obtained at the time when the switch is pressed for a short period of time, or to set a target vehicle-interval distance during vehicle-interval distance based control in accordance with the vehicle-interval distance obtained at the time when the switch is pressed for a short period of time. Thus, neither cited reference discloses or suggests the vehicle-to-vehicle distance setting selector of the present invention, particularly for switching the set vehicle-to-vehicle distance from a short distance to a long distance, as recited in amended independent claim 8, or for switching the set vehicle-to-vehicle distance to at least a long, middle or short distance, as recited in amended independent claim 9.

Since neither the Kakinami et al. patent nor the Nishimura patent discloses the auto-cruise apparatus, as claimed in the present invention, it is submitted that the alleged combination of these references also does not disclose or suggest the present invention, as claimed. Nor even if the references were combined, as suggested, would such alleged combination result in the claimed invention. It is therefore submitted that the references, either alone or in alleged combination, fail to disclose or suggest the auto-cruise apparatus, as claimed.


Based upon the forgoing, it is respectfully submitted that independent claims 8-9 are patentable and in condition for allowance. Reconsideration is respectfully requested.

It is further submitted that dependent claim 10 is also patentable and in condition for allowance due to its dependency upon independent claim 9, since the dependent claim differs in scope from the parent claim. Dependent claim 10 depends from independent claim 9, and thus is further limited to additional features of the claimed invention. Therefore, it is respectfully submitted that dependent claim is patentable over the combination of the Kakinami et al. patent and the Nishimura patent for at least the reasons set forth above with respect to independent claim 9. Reconsideration is requested.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact the Applicant's undersigned counsel at the telephone number, indicated below, to arrange for an interview to expedite the disposition of this application.

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Respectfully submitted,



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